

Exhibit 2

Friday, June 7, 2024 at 20:45:23 Eastern Daylight Time

Subject: Re: Jonathan R - Defendants' Privilege Log
Date: Thursday, January 11, 2024 at 4:34:37 PM Eastern Standard Time
From: Julia Tebor
To: Rebecca Wolfe, Marcia Lowry, Jonathan Borle, Alex Meade, Lindsay Gus, Rich Walters, John Mazezka
CC: Philip Peisch, Caroline Brown, Julia Siegenberg, Steven R. Compton, Laura Welikson
Attachments: image001.jpg, image002.png, image003.png, image004.png, image005.png, image006.png

Counsel,

Plaintiffs are in receipt of Defendants' privilege log identifying documents withheld on the grounds of deliberative process privilege. This privilege log is wholly inadequate as the description for almost all documents is "This document received a score greater than or equal to the cutoff score generated by Relativity's predictive coding tool for deliberative process privilege, which is developed in part through the results of a manual review by Defendants' counsel of thousands of ESI documents for this case." Defendants appear to not have reviewed the documents on their privilege log and have made it impossible for Plaintiffs to determine whether these documents are privileged. While Plaintiffs understood that Defendants were using predictive coding, Defendants still have an obligation to review potentially privileged documents to decide if they are, in fact, privileged. This is particularly important when asserting the deliberative process privilege, given that it is a relatively narrow privilege, which requires a detailed showing from the government, and is subject to a balancing test by the court to determine whether the document merits protection even if it falls within the ambit of the privilege. Defendants cannot possibly satisfy this standard if they have not reviewed the documents at issue. Defendants should produce an updated and adequate privilege log immediately and no later than January 26. Plaintiffs will move to compel an adequate privilege log if Defendants fail to do so.

Defendants also state in their email that they will be producing a log of documents withheld as attorney-client privileged in the "coming weeks." Given the parties upcoming hearing on the sanctions motion and given that the spoliation issue involves communications of April Robertson, Plaintiffs require information as soon as possible and prior to the hearing as to whether documents responsive to Plaintiffs' Twelfth Request for Production are being withheld on attorney-client privilege grounds. Defendants should produce this information no later than Monday, January 15.

Moreover, given the court-ordered deadlines, Plaintiffs need to understand as soon as possible whether there are other responsive documents being withheld pursuant to attorney-client privilege. Plaintiffs request that Defendants produce an adequate attorney-client privilege log no later than January 26.

Julia Tebor
Supervising Attorney
[A Better Childhood](http://abetterchildhood.org)
jtebor@abetterchildhood.org
O: (646) 771-9778



Stay Connected:



This email and any attachments may contain confidential and privileged information. If you are not the intended recipient, please notify the sender immediately, destroy this email, and destroy any copies. Any dissemination or use of this information by a person other than the intended recipient is unauthorized and may be illegal.

From: Rebecca Wolfe <rwolfe@brownandpeisch.com>

Date: Wednesday, January 10, 2024 at 8:53 AM

To: Julia Tebor <jtebor@abetterchildhood.org>, Marcia Lowry <mlowry@abetterchildhood.org>, Jonathan Borle <jbore@abetterchildhood.org>, Alex Meade <ameade@shafferlaw.net>, Lindsay Gus <lgus@abetterchildhood.org>, Rich Walters <rwalters@shafferlaw.net>, John Mazezka <jmazezka@drowv.org>

Cc: Philip Peisch <ppeisch@brownandpeisch.com>, Caroline Brown <cbrown@brownandpeisch.com>, Julia Siegenberg <jsiegenberg@brownandpeisch.com>, "Steven R. Compton" <Steven.R.Compton@wvago.gov>

Subject: Jonathan R - Defendants' Privilege Log

Counsel:

Defendants have uploaded their privilege log to the FTP located at:

<https://filetransfer.cdslegal.com>

Username: brownpeisch_forOC

Please use the password for this FTP that we've previously provided. The document is located in the folder titled with today's date: 20240110.

This privilege log reflects documents withheld for the deliberative process privilege from Defendants' productions on November 16, 2023, November 17, 2023, and January 8, 2024 based on the results of Technology Assisted Review. We are working on Defendants' privilege log for attorney-client privilege and expect to provide it in the coming weeks.

Thank you,

Rebecca

REBECCA WOLFE

O: 202.803.7271 | C: 816.398.2475

rwolfe@brownandpeisch.com | [Website](#) | Washington, D.C.



This message is from a law firm and may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply e-mail that this message has been inadvertently transmitted to you and delete this e-mail from your system. Thank you for your cooperation.